

MONTANA LEGISLATIVE HISTORY

Chapter 183 ~~18~~ 2001

Bill H 440 S _____

Original bill & history X c

H. Committee on LOCAL GOV'T

Hearing Date(s) 2/15 X c
& EXEC ACTION _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on LOCAL GOV'T

Hearing Date(s) 3/13 X c
& EXEC ACTION _____ c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

Bill Draft Number: LC1287

Bill Type - Number: HB 440

Short Title: Revise county commissioner residency requirements for election

Primary Sponsor: Hal Jacobson

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 44

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/03/2001			
(H) Signed by Governor	04/03/2001			
(H) Transmitted to Governor	03/28/2001			
(S) Signed by President	03/27/2001			
(H) Signed by Speaker	03/27/2001			
(H) Returned from Enrolling	03/22/2001			
(C) Sent to Printing	03/22/2001			
(H) Sent to Enrolling	03/22/2001			
(S) Returned to House	03/21/2001			
(S) 3rd Reading Concurred	03/21/2001	45	3	
(C) Sent to Printing	03/20/2001			
(S) 2nd Reading Concurred on Voice Vote	03/20/2001	47	1	
(S) Scheduled for 2nd Reading	03/20/2001			
(S) 2nd Reading Passed Consideration	03/17/2001			
(S) Scheduled for 2nd Reading	03/17/2001			
(S) Committee Report--Bill Concurred	03/14/2001			(S) Local Government
(S) Committee Executive Action--Bill Concurred	03/14/2001	9	0	(S) Local Government
(S) Hearing	03/13/2001			(S) Local Government
(S) Referred to Committee	02/28/2001			(S) Local Government
(S) First Reading	02/28/2001			
(H) Motion Carried	02/21/2001			
(H) Transmitted to Senate	02/21/2001			
(H) 3rd Reading Passed	02/21/2001	93	6	
(H) Scheduled for 3rd Reading	02/21/2001			
(H) 2nd Reading Passed	02/20/2001	94	5	
(H) Scheduled for 2nd Reading	02/20/2001			
(H) Committee Report--Bill Passed	02/16/2001			(H) Local Government
(H) Committee Executive Action--Bill Passed	02/16/2001	13	5	(H) Local Government
(H) Hearing	02/15/2001			(H) Local Government
(C) Introduced Bill Text Available Electronically	01/30/2001			
(H) Referred to Committee	01/30/2001			(H) Local Government
(H) First Reading	01/30/2001			
(H) Introduced	01/30/2001			
(C) Draft Delivered to Requester	01/26/2001			

(C) Draft Ready for Delivery	01/20/2001
(C) Draft in Assembly/Executive Director Review	01/18/2001
(C) Draft in Final Drafter Review	01/18/2001
(C) Bill Draft Text Available Electronically	01/18/2001
(C) Draft in Input/Proofing	01/18/2001
(C) Draft to Drafter - Edit Review [CAJ]	01/18/2001
(C) Draft in Edit	01/17/2001
(C) Draft in Legal Review	01/17/2001
(C) Draft to Requester for Review	01/17/2001
(C) Draft Request Received	12/18/2000

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Jacobson	Hal	
Drafter	Kurtz	Leanne	
Primary Sponsor	Jacobson	Hal	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
County Officers (see also: Local Government)		Simple	CTYO
Elections (see also: Ballot Issues)		Simple	ELEC

Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: N
Session Law Ch. Number: 183

DEADLINE

Category: General Bills

Transmittal Date: 02/23/2001

Return (with 2nd house amendments) Date: 03/31/2001

Section Effective Dates

Section(s)	Effective Date	Date Qualified
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All Sections 03-APR-01

HOOSE BILL NO. 440

INTRODUCED BY

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RESIDENCY REQUIREMENTS FOR ELECTION TO THE COUNTY COMMISSION TO MAKE THEM CONSISTENT WITH THE RESIDENCY REQUIREMENTS FOR FILLING COUNTY COMMISSION VACANCIES; AMENDING SECTION 7-4-2104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2104, MCA, is amended to read:

"7-4-2104. Commissioners to be elected by district. (1) At each general election, the member or members of the board of county commissioners to be elected ~~shall~~ must be selected from the residents and electors of the district or districts in which the vacancy occurs, but the election of ~~such the~~ member or members of the board ~~shall~~ must be submitted to the entire electorate of the county.

(2) ~~No one shall~~ A person may not be elected as a member of ~~said a~~ a board of county commissioners who unless the person has not resided in the county and the district for at least 2 years next preceding the time when he shall become a candidate for said office and was not a resident of the district at the time of filing for the primary general election."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on February 15, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 423; HJ 24; HB 439; HB 440;
HB 371;, 2/8/2001
Executive Action: HB 371; HJ 24; HB 439; HB 440;
HB 423

HEARING ON HB 440

Sponsor: Rep. Jacobsen, HD 54

Proponents: Gordon Morris, MACO
Ron Alles, Lewis and Clark County

Opponents: None

Opening Statement by Sponsor: Rep. Jacobsen introduced HB 440. This bill is to make statutes consistent for a person filing for a county commissioner seat. Current law says they have to be a resident of the county for 2 years and a resident of their district on the day of the election. This bill would change the residency requirements for commissioner candidates. They would have to be a resident of the county and the district for 2 years. ***{Tape : 1; Side : B; Approx. Time Counter : 20.3 - 22.5}***

Proponents' Testimony:

Gordon Morris, MACO. We support this bill. ***{Tape : 1; Side : B; Approx. Time Counter : 22.5 - 22.8}***

Ron Alles, Lewis and Clark County. We support this bill. ***{Tape : 1; Side : B; Approx. Time Counter : 22.8 - 23.2}***

Opponents' Testimony: None

Questions from Committee Members and Responses: Reps. Younkin, Mangan, Bitney and Noennig questioned the witnesses. The discussion was about why add the 2 years district residency restriction. ***{Tape : 1; Side : B; Approx. Time Counter : 20.3 - 30} {Tape : 2; Side : A; Approx. Time Counter : 0 - 11.1}***

Closing by Sponsor: Rep. Jacobsen closed HB 440. ***{Tape : 2; Side : A; Approx. Time Counter : 11.1 - 12.5}***

EXECUTIVE ACTION ON HB 371

Motion/Vote: REP. LEE moved that HB 371 DO PASS. Motion carried 12-6 with Andersen, Bitney, Himmelberger, Laible, Noennig, and Yunkin voting no. {Tape : 2; Side : B; Approx. Time Counter : 21 - 30} {Tape : 3; Side : A; Approx. Time Counter : 0 - 8.1}

EXECUTIVE ACTION ON HJ 24

Motion/Vote: REP. LAWSON moved that HJ 24 DO PASS. Motion carried 17-1 with Bitney voting no. {Tape : 3; Side : A; Approx. Time Counter : 8.1 - 11.2}

EXECUTIVE ACTION ON HB 439

Motion/Vote: REP. JACOBSON moved that HB 439 DO PASS. Motion carried unanimously. {Tape : 3; Side : A; Approx. Time Counter : 11.2 - 16}

EXECUTIVE ACTION ON HB 440

Motion/Vote: REP. CARNEY moved that HB 440 DO PASS. Motion carried 13-5 with Bitney, Esp, Himmelberger, Newman, and Whitaker voting no. {Tape : 3; Side : A; Approx. Time Counter : 16 - 20.1}

EXECUTIVE ACTION ON HB 423

Motion: REP. LAWSON moved that HB 423 DO PASS.

Motion/Vote: REP. NOENNIG moved that HB 423 BE AMENDED. Motion carried unanimously.

Motion: REP. PETERSON moved that HB 423 BE AMENDED.

Substitute Motion: REP. MANGAN made a substitute motion that HB 423 BE AMENDED.

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

LOCAL GOVERNMENT COMMITTEE

DATE 2/16/01 Bill NO. 440 NUMBER 13-5

MOTION: Carney do pass

Name	AYE	NO
REP. MARK NOENNIG	X	
REP. ROD BITNEY, V C MAJORITY		X
REP. JEFF MANGAN, V C MINORITY	X	
REP. JOAN ANDERSON	X	
REP. LARRY CYR	X	
REP. DENNIS HIMMELBERGER		X
REP. RICK LAIBLE	X	
REP. BOB LAWSON		X
REP. JAMES WHITAKER		X
REP. JOHN ESP		X
REP. BRAD NEWMAN	X	
REP. JESSE LASLOVICH	X	
REP. HAL JACOBSON	X	
REP. CINDY YOUNKIN	X	
REP. BILL PRICE	X	
REP. KEN PETERSON	X	
REP. EILEEN CARNEY	X	
REP. MICHELLE LEE	X	



HOUSE STANDING COMMITTEE REPORT

February 16, 2001

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** report that **House Bill 440** (first reading copy - white) **do pass**.

Signed: Mark E. Noennig
Representative Mark Noennig, Chair

- END -

Committee Vote:
Yes 13, No 5.

391321SC.hdc

2/16
1:55
2/16

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

BILL NO. 440

DATE 2/16/01

SPONSOR(S) Jacobson

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
☒ POI	Morris (Morris)		M A Co.
☒ POI	Ran Atlas	Helena	LIC Co
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\visitor register.frm

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 13, 2001 at
3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Ken Toole (D)

Members Excused: Sen. John Cobb (R)
Sen. Emily Stonington (D)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 439, 3/1/2001
HB 440, 3/1/2001
HB 498, 3/1/2001

Executive Action: HB 439 BC
HB 440 BC
HB 498 BCAA

HB 30 Discussed

{Tape : 1; Side : A; Approx. Time Counter : 0}

They want to see effective representation on the part of low income residents. They weren't convinced that removing the requirement for signatures on a petition would actually encourage residents to communicate with each other to get proper representation. The housing authority responded that they were getting the desired participation and felt the removal of the petition would encourage residents to participate. Also, by expanding the number of people who would be eligible to apply, this would help increase the resident participation. About four weeks ago, MPA called and said they had no objection to the bill.

SEN. JOHN BOHLINGER supported the bill. He was astounded by the high turnover of residents in Helena. **Richard Jennings** explained that several things create the high turnover. In the past four to five years, the entire housing industry has responded to the shortage of rental units. Hundreds of low income units have been built. They previously had long waiting lists. Now, people move in and then find other rental units they can afford. People have been encouraged to stay in the housing units longer with programs such as retraining.

SEN. BOHLINGER wanted to know what the vacancy factor is in Helena. **Mr. Jennings** said when someone moves out they usually can have the unit rented in a week or less. They pursue applicants actively.

Closing by Sponsor:

REP. JACOBSON closed.

EXECUTIVE ACTION ON HB 439

Motion/Vote: **SEN. BOHLINGER** moved that **HB 439 BE CONCURRED IN**. Motion carried 8-1 with Miller voting no. **SEN. TOOLE** will carry the bill.

HEARING ON HB 440

Sponsor: **REP. HAL JACOBSON, HD 54, HELENA**

Proponents: **Gordon Morris, Director, MT Assoc. of Counties (MACO)**
Mike Murray, Lewis & Clark County Commissioner

Opponents: **None**

Opening Statement by Sponsor:

REP. HAL JACOBSON, HD 54, HELENA. House Bill 440 was requested by the county commissioners of Montana. This bill would revise residency requirements for election to the county commission, thereby making those consistent with the residency requirements for filling county commission vacancies. Currently when a person files for a specific county commission seat, that person has to live in that district on the date that he/she files. They would then only be required to live in that district through the election date. Whereas, if a county commission seat were vacated and someone were to be appointed to that seat, that person must live in that district and must have lived there for two years. This is an inconsistency. This bill would require a person who files for a county commission seat to have resided in the county and the district for at least two years preceding the general election.

Proponents' Testimony:

Gordon Morris, Director, MT Assoc. of Counties. This bill is straightforward. This provision of law should be consistent with a vacancy situation and a filing for the seat at election time. This would eliminate candidates shopping for a district and living in that district on the day they file until election time. Whether a person is appointed or elected, they must have lived in the district for two years.

Mike Murray, Lewis & Clark County Commissioner. This particular bill was more important to rural county commissioners than to urban county commissioners. They support the bill.

Opponents' Testimony: None**Questions from Committee Members and Responses:**

SEN. KEN TOOLE inquired about other residency laws for elected officials. **Gordon Morris** offered they had considered the laws addressing the legislators' residency criteria. They opted to keep the two year residency for election and appointing purposes.

SEN. TOOLE wondered if counties had problems in recruiting candidates for these positions across the state. **Mr. Morris** related an account of one county, in this past election, who had no candidate and the seat was filled by the former commissioner. That is only one out of fifty-six.

SEN. TOOLE spoke of litigation concerning single-member districts with Blaine County in particular. He asked if this bill changed

that problem in any way. **Mr. Gordon** recounted the Windy Boy Case in Big Horn County back in 1989. They had a significant minority population as determined by the federal court, and the one man, one vote, requirement by federal law, was violated on an at-large election basis where the candidate ran on a district rationale. He had seen, over the past 18 months, challenges of the districting methodology in Montana, especially in Rosebud County and Blaine County. He would have predicted, following the Windy Boy Case, more counties would have toppled like dominos and it hasn't happened. The district requirement is still set in code. MACO had looked at the possibility of addressing this issue and eliminating the at-large aspect for the commissioner election. They would then be elected on a district basis. They chose not to do anything at this time. The Interim Committee on Education and Local Government also looked at this issue and decided not to do anything.

SEN. JOHN BOHLINGER related that legislative candidates are not required to live in the district that they represent, but are required to live in the county.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Closing by Sponsor:

REP. JACOBSON closed. This legislation is designed to deal with situations that do exist concerning county commissioners.

HEARING ON HB 498

Sponsor: **REP. GARY BRANAE, HD 17, BILLINGS**

Proponents: **Mike Murray, Lewis & Clark County Commissioner**
Gordon Morris, Director, MT Assoc. of Counties (MACO)
Sherrel Rhys, Jefferson County

Opponents: **None**

Opening Statement by Sponsor:

REP. GARY BRANAE, HD 17, BILLINGS. House Bill 498 would allow solid waste management district service charges to be based on a combination of waste management factors. This would improve service, hold costs down and make rates to users more equitable. Currently, solid waste districts assess charges based on only one of three different factors. Those factors are the size of the vehicle which disposes of the waste, the volume or weight of the

would be solely on the volume or weight. He stated that as far as he understood the bill, line 2 on page 2 was not necessary.

Closing by Sponsor:

REP. BRANAE closed. He felt this bill would encourage people to reduce the amount of garbage by recycling. The disposal of waste is an important issue and every effort should be made to make it more efficient.

EXECUTIVE ACTION ON HB 498

Motion: SEN. ELLIOTT moved that HB 498 BE AMENDED EXHIBIT(1os57a01).

Discussion:

SEN. KEN MILLER asked for caution on removing this language. In Billings, they charged him on the size of his truck. He believed that since that time, Billings had put in a scale.

SEN. DON HARGROVE responded that recently cities have scales. On page 2, line 3 it states "the volume or weight of the waste." This would discount the size of truck. They would look at the volume or cubic feet of a container and if not full, could pro-rate the cost.

CHAIRMAN MAHLUM explained in Missoula, they measure the container holding the garbage and charge by the volume.

Vote: Motion carried 9-0.

Motion/Vote: SEN. ELLIOTT moved that HB 498 BE CONCURRED IN AS AMENDED. Motion carried 9-0. SEN. ELLIOTT will carry the bill.

EXECUTIVE ACTION ON HB 440

Motion/Vote: SEN. BOHLINGER moved that HB 440 BE CONCURRED IN. Motion carried 9-0. SEN. BOHLINGER will carry the bill.

CHAIRMAN MAHLUM informed the committee that HB 30 that was awaiting executive action might be moved to Judiciary Committee.

Leanne Kurtz explained that HB 146 is amending the section that HB 30 is amending. The two sections are conflicting. Judiciary Committee is hearing HB 146 and it was felt that they should hear HB 30 and make the decision on how to handle both bills.

**MONTANA SENATE
2001 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE**

ROLL CALL

DATE

3-13-01

[illegible]



SENATE STANDING COMMITTEE REPORT

March 13, 2001

Page 1 of 1

Mr. President:

We, your committee on Local Government recommend that House Bill 440 (third reading copy - blue) be concurred in.

Signed:

A handwritten signature in dark ink, appearing to read "Dale Mahlum", is written over a horizontal line.

Senator Dale Mahlum, Chair

To be carried by Senator John Bohlinger

- END -

Committee Vote:
Yes 9, No 0.

571632SC.sjo

Handwritten initials, possibly "GP", in dark ink.

DATE 3-13-01

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: HB 439 ; HB 440
HB 498

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Mike Murray	447-8304	LTC Co.	440 498	✓	
Sherrel Rhy	225-4359	Jefferson County	498	✓	
Gordon Morris		MACo 440	439 498	✓	
Will Seber	227-1189	LTC Co.	498	✓	
Joe Magul	457-2000	City of FF	439	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY